In the Supreme Court of the United States

OCTOBER TERM, 1970

No. 715

ANGELO DE STAFANA, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a jury trial in the United States District Court for the District of Connecticut, petitioner was convicted on three counts charging him with using extortionate means to attempt to collect an extension of credit, using such means to punish another for the non-repayment of the same extension of credit, and conspiracy to commit those crimes, all in violation of 18 U.S.C. 894(a). He was sentenced to concurrent prison terms of three years. The court of appeals affirmed (Pet. App. 1a-9a).

The petition does not challenge the sufficiency of the evidence but rather argues that the statute under which petitioner was convicted is constitutionally deficient because: (1) its terminology is vague; (2) the evidence admissible thereunder violates due process, self-incrimination and confrontation rights, impermissibly restricts petitioner's freedom of contract, and constitutes an unlawful delegation of Congressional powers to the States; (3) Congress lacked power to enact it; and (4) as applied to this case, it amounts to an ex post facto law. These arguments were discussed and rejected by the court of appeals below in its thorough opinion, on which we rely here. See also *United States* v. *Perez*, 426 F.2d 1073 (C.A. 2), pending on a petition for a writ of certiorari, No. 600, this Term; *United States* v. *Biancofiori*, 422 F.2d 584 (C.A. 7), certiorari denied, 398 U.S. 942. And we note, as did the court of appeals, that petitioner's attacks grounded on the evidence admissible under subsections (b) and (c) of 18 U.S.C. 894 are without merit since no such evidence was introduced.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

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